



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 5**

**77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590**

**JUN 21 2011**

REPLY TO THE ATTENTION OF:

Patrick Wrase  
New Ulm Public Utilities Commission  
310 First North Street  
New Ulm, Minnesota, 56073

Re: New Ulm Public Utilities Commission  
Boiler #4 Air Construction Permit

Dear Mr. Wrase:

Thank you for your February 29, 2011 letter, citing U.S. Environmental Protection Agency's recent action regarding the Prevention of Significant Deterioration (PSD) permit application from the Avenal Energy Project in California and the possible significance of this action with respect to the PSD permit for New Ulm Public Utilities Commission (NUPUC) Boiler #4 modification.

Specifically, you state in your letter that NUPUC submitted an application to modify its existing Boiler #4 in July 2009. NUPUC is seeking a permit that would allow the facility to reinstall the coal bucket elevator, allowing the reintroduction of coal as a primary fuel. The proposed project also includes boiler upgrades and the installation of advanced air pollution control systems.

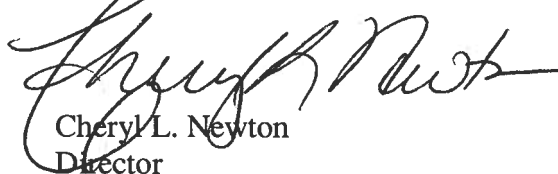
EPA's recent action relative to the PSD permit for Avenal resulted from the Agency's careful assessment of the specific procedural and factual circumstances regarding the proposed Avenal facility. The action invited public comment on its intention to effectively grandfather the source from compliance with the recently promulgated primary 1-hour NO<sub>2</sub> and SO<sub>2</sub> NAAQS, as well as from greenhouse gas best available control technology requirements. It is important to note that EPA's proposal to grandfather this source from these requirements does not represent final agency action.

As stated in Gina McCarthy's declaration of January 31, 2011, EPA is considering how the Agency should extend the proposed grandfathering policy for the Avenal source to other proposed sources that may be experiencing circumstances similar to Avenal. As explained in the Avenal permit's Supplemental Statement of Basis, the proposed approach for grandfathering the permit for Avenal, in particular, is the result of EPA's responsibility to balance its statutory obligations to issue decisions on permit applications in a timely manner and to implement the substantive requirements of the Act. While EPA has reached a tentative conclusion on the proper balance in the particular case of Avenal, we have not yet determined where the proper

balance falls for other permits, all or most of which will differ from the Avenal case in at least some aspects. Other interested permit applicants should not assume that matching one particular or even several of the process of factual aspects of the Avenal case will qualify a source for grandfathering. Additionally, the Agency is also considering the appropriate mechanism (e.g., individual permit decisions, guidance, or rulemaking) for establishing this broader policy for grandfathering; whatever mechanism is chosen will surely involve opportunity for public comment on the general approach to the grandfathering issue and potentially also on its applicability to specific sources.

Therefore, EPA cannot confirm, at this time, that the circumstances described in your letter will be covered by the grandfathering policy EPA is developing. However, as part of this process, EPA will consider the points raised in your letter and will provide further clarification as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton", written over the printed name.

Cheryl L. Newton  
Director

Air and Radiation Division